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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,385	02/01/2002	John R. Fredlund	83803SLP	2388

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EXAMINER

JERABEK, KELLY L

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/061,385

Applicant(s)

FREDLUND ET AL

Examiner

Kelly L. Jerabek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 11-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>8/15/2005</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/1/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of the first species (corresponding to figure 1) in the reply filed on 6/27/2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Applicant stated that claims 1-10 and 29-34 are believed to read on the elected invention. However, in a telephone conversation with applicant's attorney, David Novais, on 8/12/2005 it was determined that claims 29-31 correspond to the second species and therefore only claims 1-10 and 32-34 read on the elected first species. Therefore, only claims 1-10 and 32-34 will be examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5-6, 8, 10, and 33-34 rejected under 35 U.S.C. 102(b) as being anticipated by Fellegara et al. US 5,845,166.

Re claim 1, Fellegara discloses a method of processing a digital image for user assessment of an output image product intended to be generated using the digital image comprising the steps of: accessing the digital image using an imaging device (camera) having viewing member (36) (col. 13, lines 32-57); selecting the output image product intended to include the digital image (print copy icon 210) (col. 17, lines 14-32); digitally modifying (editing) at least a portion of the digital image using the imaging device (camera) to produce a substantially accurate representation of at least a portion of the output image product (col. 14, line 27-col. 15, line 67); and displaying, using the viewing member (36), for assessment by the user, the substantially accurate representation of at least a portion of the output image produce (display the formatting changes) (col. 15, lines 20-51).

Re claim 2, Fellegara states that the digital camera is capable of capturing a digital image (col. 11, lines 32-48).

Re claim 5, Fellegara states that digital image information may be downloaded to the camera over a communications network (136) (col. 19, lines 8-13, 60-63).

Re claim 6, the camera disclosed by Fellegara includes an interface connector (130) for receiving a removable media (memory card) and accessing digital images from the memory card (col. 11, lines 32-48; col. 18, lines 63-67).

Re claim 8, the viewing member (36) disclosed by Fellegara is a display.

Re claim 10, Fellegara states that the images captured by the camera are stored in an album in the camera when an album function icon (216) is selected (col. 16, lines 23-47).

Re claim 33, Fellegara discloses an imaging device (camera) for processing a digital image for user assessment of an output image product intended to be generated using the digital image, comprising: input means for accessing the digital image (image capture operation) (col. 11, lines 32-48); selection means for selecting the output image product to include the digital image (print copy icon 210) (col. 17, lines 14-32); processing means for digitally modifying (editing) at least a portion of the digital image using the imaging device to produce a substantially accurate representation of at least a portion of the output image product (col. 14, line 27-col. 15, line 67); and a viewing member (36) for displaying the substantially accurate representation of at least a portion of the output image product for assessment by the user (display the formatting changes) (col. 15, lines 20-51).

Re claim 34, the camera disclosed by Fellegara also includes a query means (print icon 210) for querying the user as to whether to generate the output image produce (col. 17, lines 14-32).

Claims 1, 4, 8-9, and 32 rejected under 35 U.S.C. 102(b) as being anticipated by Marni US 6,285,410.

Re claim 1, Marni discloses a method of processing a digital image for user assessment of an output image product intended to be generated using the digital image comprising the steps of: accessing the digital image using an imaging device (kiosk 10) having viewing member (440) (col. 3, line 49 – col. 4, line 3; col. 9, lines 5-55); selecting the output image product (22) intended to include the digital image (col. 3, lines 52-57); digitally modifying at least a portion of the digital image using the imaging device (kiosk 10) to produce a substantially accurate representation of at least a portion of the output image product (col. 3, lines 58-67; col. 9, lines 12-40); and displaying, using the viewing member (440), for assessment by the user, the substantially accurate representation of at least a portion of the output image produce (col. 9, lines 40-49).

Re claim 4, Marni discloses a reader (12) for scanning a visual image to produce a digital image (col. 3, lines 52-57).

Re claim 8, the viewing member (440) disclosed by Marni is a display.

Re claim 9, Marni discloses a printer (16) adapted to produce a hard copy print (col. 3, lines 52-57).

Re claim 32, see claim 1. Marni discloses a computer storage product (620) having at least one computer storage medium having instructions (622) stored therein causing computers to perform the method disclosed in claim 1 (col. 10, lines 36-41).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Marni in view of Wong et al. US 2003/0058355.

Re claim 3, Marni discloses all of the limitations of claim 1 above. Additionally, Marni states that the imaging device is a kiosk (10). However, the kiosk (10) accesses the digital image by scanning a visual image to produce the digital image (col. 3, lines

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52-57). The Marni reference does not specifically state that the step of accessing the digital image is accomplished by accessing the digital image from a removable medium.

Wong discloses in figure 1 a digital camera (100) including a memory card (140) (page 1, paragraph 5). Wong states that the memory card (140) is removable and digital image data in the removable memory card can be downloaded to a kiosk for printing (page 1, paragraph 10). Therefore, it would have been obvious for one skilled in the art to have been motivated to include the concept of downloading digital image information from a removable memory card to a kiosk as disclosed by Wong in the kiosk capable of editing digital image information disclosed by Marni. Doing so would provide a means for retrieving stored digital data in order to reproduce the image on a display device or a printer (Wong: page 1, paragraph 4).

Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Fellegara et al. in view of Steinberg et al. US 6,006,039.

Re claim 7, Fellegara discloses all of the limitations of claim 1 above. Additionally, Fellegara states that the step of accessing the digital image is accomplished by capturing the digital image, downloading the digital image over a communications network, or accessing the digital image from a removable media. However, Fellegara does not specifically state that the step of accessing the digital image is accomplished by accessing the digital image from a digital camera in communication with the imaging device (camera).

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Steinberg discloses in figure 1 a method of downloading information between digital cameras. Each camera (10,12) includes a receiver (20) and a port (16) that are used to transfer data between the cameras (10,12) (col. 3, lines 20-56). Therefore, it would have been obvious for one skilled in the art to utilize the teachings of Steinberg in order to download data from a remote camera to the digital camera capable of editing digital image information disclosed by Fellegara. Doing so would provide a means for transmitting digital image data from one camera to another.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parulski et al. (US 6,573,927) discloses an electronic still camera for capturing a digital image and creating a print order. The information regarding a digital image kiosk is relevant material.

Seaman et al. (US 2003/0090574) discloses systems and methods for providing automated delivery of digital images. The information regarding a communication network for transmitting digital images is relevant material.

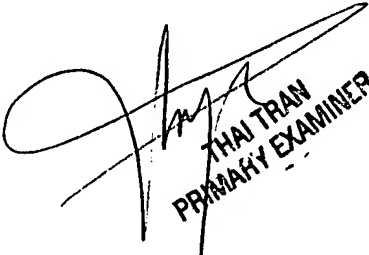
Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is **(571) 272-7312**. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached at **(571) 272-⁷³⁸²7564**. The fax phone number for submitting all Official communications is **(571) 273-8300**. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at **(571) 273-7312**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KLJ


THAI TRAN
PRIMARY EXAMINER